

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

April 3, 2008

The Marlboro Township Council held its regularly scheduled meeting on April 3, 2008 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Cantor opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regularly scheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on December 18, 2007; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman LaRocca, Councilwoman Marder, Council Vice President Rosenthal, Councilwoman Tragni and Council President Cantor.

Also present were: Mayor Jonathan L. Hornik, Ronald Gordon, Esq., Business Administrator Alayne Shepler, Municipal Clerk Alida Manco, and Deputy Clerk Deborah Usalowicz.

The following Res. # 2008-115 (Change Meeting Date April 17 to April 24, 2008 and Cancelling May 1st) was introduced by reference, offered by Council Vice President Rosenthal, and seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-115

BE IT RESOLVED by the Township Council of the Township of Marlboro that the Council meeting scheduled for April 17, 2008 be changed to April 24, 2008 and cancelling the May 1<sup>st</sup> meeting Town Hall, 1979 Township Drive, Marlboro, New Jersey.

BE IT FURTHER RESOLVED that the regularly scheduled Council Meeting of May 1, 2008 is hereby cancelled.

Council Vice President Rosenthal opened the Public Hearing on Ordinance # 2008-8 (Amend Chapter 84 - Pool Inspection Fees). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution # 2008-116/Ord. # 2008-8 (Amend Chapter 84 - Pool Inspection Fees) was introduced by reference, offered by Councilwoman Tragni, seconded by Councilman LaRocca and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-116

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2008-8

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS", SECTION 84-36, "PRIVATE SWIMMING, WADING AND PORTABLE POOLS", SUB-SECTION 84-36(B)(3)(G) TO INCREASE THE INSPECTION FEE FOR ZONING APPLICATIONS FOR SWIMMING POOLS AND AMENDING AND SUPPLEMENTING CHAPTER 84, "LAND USE DEVELOPMENT AND REGULATIONS", "FEE SCHEDULE A: NONREFUNDABLE FEES", SECTION W, "ZONING PERMIT", TO REDUCE THE FEE FOR ZONING PERMITS FOR SWIMMING POOLS

which was introduced on March 6, 2008, public hearing held April 3, 2008 be adopted on second and final reading this 3rd day of April, 2008.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

The following Resolution # 2008-99/Ord. # 2008-9 (Amend Chapter 84 - Signs and Outdoor Advertising Regulations) was introduced as amended by reference, offered by Councilwoman Marder and seconded by Councilwoman Tragni. Ronald Gordon, Esq. explained the ordinance and answered Mayor and Council's questions. After discussion, the resolution/ordinance was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-99

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE #2008-9 (AS AMENDED)

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS" SECTION 84-62, "SIGNS AND OUTDOOR ADVERTISING REGULATIONS" TO ESTABLISH AND SET FORTH REGULATIONS ON THE PLACEMENT OF TEMPORARY SIGNS, TEMPORARY POLITICAL SIGNS AND TO ESTABLISH ENFORCEMENT PROCEDURES FOR THE REMOVAL OF PROHIBITED SIGNS

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 24, 2008 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2008-9 (AS AMENDED)

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS" SECTION 84-62, "SIGNS AND OUTDOOR ADVERTISING REGULATIONS" TO ESTABLISH AND SET FORTH REGULATIONS ON THE PLACEMENT OF TEMPORARY SIGNS, TEMPORARY POLITICAL SIGNS AND TO ESTABLISH ENFORCEMENT PROCEDURES FOR THE REMOVAL OF PROHIBITED SIGNS

BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey that Chapter 84, *Land Use Development and Regulations*, Article III, *Zoning: Standards and Regulations*, Section 84-62, *Signs and Outdoor Advertising Regulations*, of the Code of the Township of Marlboro be and is hereby amended and supplemented to set forth regulations on the placement of temporary signs, political signs and enforcement procedures for the removal of prohibited signs, as follows:

§ 84-62. Signs and outdoor advertising regulations.

A. Purpose; legislative intent.

The purpose of this Section is promulgate and enforce regulations to uphold the Township's aesthetic and safety interests by minimizing clutter, obstructed views and various traffic hazards, while upholding the right to express free speech and to exchange of ideas.

The following regulations shall apply to all signs and outdoor advertising and shall be in addition to other regulations for specific uses elsewhere in this chapter:

B. General provisions.

(1) Unless otherwise provided for, all signs shall relate to the premises on which they are erected.

(2) No part of any sign shall be located closer to any lot line than ten feet (10') or a distance equal to the height of the sign, whichever is greater, except for traffic signs and other signs installed by governmental agencies.

(3) Signs may be double-faced, in which case the maximum sign area will apply to only one side.

(4) The area of a sign shall include every part of the sign, including moldings, frames, posts, pylons or other supporting sections.

(5) Where the face of a sign has openings or is of an irregular shape, the area of the sign, exclusive of supporting sections, shall be considered as the total area of the smallest four-sided (straight sides) geometric shape which most closely outlines the sign.

(6) Freestanding signs shall be supported by posts or pylons of durable materials, which may include concrete, steel, treated wood or other suitable material, and shall be set securely in the ground or concrete so that the sign will be capable of withstanding high winds. No other bracing or guy wire shall be permitted.

(7) Any sign attached flat against the surface of a building shall be constructed of durable material and attached securely to the building with non-rusting hardware. The use of wood or fiber plugs is prohibited.

(8) Advertising or identification of an establishment painted on the surface of a building shall be

considered part of the total allowable sign area and shall be subject to the regulations of this chapter.

(9) Signs attached to the side of a building shall not extend more than twelve inches (12") from the face of the building.

(10) A permit shall be secured from the Construction Official for the erection, alteration or reconstruction of any signs other than nameplate, identification, temporary, sales or rental signs.

(11) Whenever a sign becomes structurally unsafe or endangers the safety of the building or the public, the Construction Official shall order such sign to be made safe or removed. Such order shall be complied with within ten (10) days of the date of the notice, emergencies excepted.

(12) Signs shall not be painted on or affixed to water towers, storage tanks, smokestacks or similar structures.

(13) The area surrounding ground signs shall be kept neat, clean and landscaped. The owner of the property upon which the sign is located shall be responsible for maintaining the condition of the area.

C. Prohibited signs. The following signs are prohibited in all zones in the Township:

(1) Moving or revolving signs and signs using waving, blinking, flashing, vibrating, flickering, tracer or sequential lights.

(2) Signs using red, green or yellow lights placed within one hundred feet (100') of any traffic signal.

(3) Signs using words such as "stop," "look," "danger" or any other sign which in the judgment of the Police Chief of the Township or his designee, constitutes a traffic hazard or otherwise interferes with the free flow of traffic.

(4) Roof signs.

(5) Signs advertising a product or service not sold on the premises, signs advertising or directing attention to

another premises and any other sign not related to the premises upon which the sign is erected.

(6) Signs causing interference with radio or television reception and telecommunications signals.

(7) Signs obstructing doors, fire escapes or stairways or keeping light or air from windows used for living quarters.

(8) Signs placed on awnings, trees, fences, utility poles, light poles or signs attached to other signs.

D. Permitted signs. The following signs and outdoor advertising are permitted:

(1) Non-illuminated directional signs identifying parking area, entrances, loading zones, exits and similar locations and not exceeding three (3) square feet in area.

(2) Name and number plates identifying residences and affixed to a house, apartment or mailbox and not exceeding fifty (50) square inches in area.

(3) Lawn signs identifying residences and not exceeding 1.5 square feet in area.

(4) Non-illuminated real estate signs announcing the sale, lease or rental of the premises upon which the sign is located. Such signs shall not exceed three (3) square feet in area in a residential zone; twenty (20) square feet in area in a commercial zone; or fifty (50) square feet in area in an industrial zone.

(5) Temporary and permanent traffic signs and signals or other signs installed by a government agency.

(6) Religious institutions, hospitals, nursing homes, private schools and service organizations may have one (1) freestanding or wall sign not exceeding twenty (20) square feet in area.

(7) Home occupations or home professional offices may have one (1) freestanding sign not exceeding three (3) square feet in area or five feet (5') in height or one (1) wall sign not exceeding three (3) square feet in area.

(8) Housing developments may place one (1) temporary sign at each entrance to the project and at the rental or sales office during the course of development. One sign shall not exceed twenty (20) square feet in area or six feet (6') in height. Other signs shall not exceed fifteen (15) square feet in area or five feet (5') in height.

(9) Each office or commercial use or industry located in a commercial or industrial zone may have one (1) or more wall signs not exceeding ten percent (10%) of the area of each side of the building fronting on a public street.

(10) Each office or commercial use or industry located in a commercial or industrial zone, having a street frontage of at least two hundred feet (200') and minimum lot size of one (1) acre, may erect one (1) freestanding sign; provided, however, where more than one use is conducted in a building or attached buildings on the same lot, only one (1) freestanding sign shall be permitted. The size of the sign shall be determined in accordance with the following table:

Street Frontage (feet)	Maximum Height of Sign (feet)	Size of Sign Face (square feet)
200 to 299	15	60
300 to 399	20	100
400 and Over	25	140

(11) Commercial uses or industries with street frontage in excess of four hundred feet (400') may erect one (1) additional freestanding sign; provided, however, that the total sign area of the additional sign shall not exceed one (1) square foot for each linear foot of street frontage in excess of four hundred feet (400'); but in no event shall the total sign area of both signs be in excess of two hundred eighty (280) square feet.

(12) One (1) non-flashing sign identifying farms, public and private parks and recreation areas and not exceeding thirty (30) square feet in area on any one side, provided that such sign shall not protrude upon any street or property line.

(13) Temporary signs and Political signs pursuant to regulations set forth in §§ 84-62(D) and (E) hereinbelow.

E. Temporary Signs. Shall be permitted under this Section subject to the following regulations:

(1) Temporary signs are defined as signs advertising public functions, fund-raising events, (other than a building fund for charitable, nonprofit or religious organizations) and by temporary signs placed by a contractor, such as a builder, painter or roofer.

(2) A temporary sign, that is, signs advertising public functions, fund-raising events, (other than a building fund for charitable, nonprofit or religious organizations), may be placed not more than forty-five (45) days prior to the function or event to which it applies; and

(3) A temporary sign must be removed not more than seven (7) days after the function or event to which it applies; and

(4) In the case of a temporary sign placed by a contractor, such as a builder, painter or roofer, no more than one such temporary sign may be placed on a given property and may not exceed six square feet (6 s.f.) in size. Such signs may only be placed on a given property during the duration of the contracted work and must be removed within seven (7) days after the completion of such contracted work. In no case shall any such sign be chained to a tree, fence or other structure; and

(5) If a temporary sign is placed on residential property, consent of the property owner must be obtained; and

(6) If the temporary sign is to be placed in the public right-of-way, then approval of such placement must be obtained from the Bureau of Traffic Safety; and

(7) The combined total area of all signs shall not exceed a total of thirty-two (32) square feet on any one premise(s) where such temporary signs are placed in the public right-of-way; and

(8) on or in the rights-of-way on Routes 9, 18, 34, 79 and County Routes 520 and 3, and on Robertsville Road, Wyncrest Road, Tennent Road, Ryan Road, and Gordon's Corner Road, temporary signs shall not be located or placed closer than within one hundred (100) linear feet of any other temporary sign on any one premise(s); and



(9) The owner of the property on which a temporary sign is placed shall be responsible for its removal; and

(10) The temporary sign must comply with all other regulations related to signs; and

(11) Any temporary sign advertising fundraising for a building fund for a charitable, nonprofit or religious organization may only be placed on the property which is the subject of such fund raising and may not exceed twelve (12) square feet in area.

F. Temporary Political Signs. Shall be permitted under this Section, pursuant to the regulations set forth herein.

(1) Temporary Political Signs shall be defined as signs pertaining to federal, state, county or local candidates or questions to be voted upon by the residents of the Township at an upcoming election and shall be subject to the following conditions:

(2) All persons or groups placing temporary political signs in the Township's Right-of-Way or other public property shall register with the Township Zoning Official before erecting such signs.

(3) temporary political signs shall be placed not more than forty-five (45) days prior to the function, event or election to which it applies; and

(4) temporary political signs must be removed not more than seven (7) days after the function, event, or election to which it applies; and

(5) if any temporary political signs are placed on residential properties, consent of the property owners must be obtained; and

(6) if any temporary political signs are to be placed in the public right-of-way, then approval of such placement must be obtained from the Bureau of Traffic Safety; and

(7) the combined total area of all such temporary political signs shall not exceed a total of thirty-two (32) square feet on any one tax lot where such temporary signs are placed in the public right-of-way; and

(8) no temporary political sign on private property shall be located or placed closer than within fifty (50) linear feet of any other sign of the same candidate or campaign on any one tax lot; and

(9) on or in the rights-of-way on Routes 9, 18, 34, 79 and County Routes 520 and 3, and on Robertsville Road, Wyncrest Road, Tennent Road, Ryan Road, and Gordon's Corner Road, temporary political signs shall not be located or placed closer than within two hundred (200) linear feet of any other sign of the same candidate or campaign on any one tax lot; and

(10) no temporary political signs shall be permitted on Township property, except with the express approval of the Township; and

(11) the owner of the tax lots, and/or the registrant for the signs, on which a temporary political sign is placed shall be responsible for its removal; and

(12) the temporary political sign must comply with all other regulations related to signs.

#### G. Enforcement; Removal of Prohibited Signs.

Enforcement of the terms of this Section shall be under the authority of the Director of the Department of Public Works, or his designee. In addition to the Director of the Department of Public Works, the Director of the Department of Community Development, or their designees which may include, but not be limited to the Code Enforcement Officer and the Zoning Officer and/or their respective designees, shall have concurrent authority to enforce the provisions of this Chapter. Whenever the Director of the Department of Public Works or the Director of the Department of Community Development or their respective designees, shall determine that a sign has been erected in violation of the provisions of this Section §84-62 et seq., including by reason of its being placed on public or municipal property without proper authority or in the public right-of-way or on utility poles, such sign may be removed at the sole discretion of the Director of Public Works and/or the Director of the Department of Community Development, or their respective designees, without notice therefor.

#### H. Violations and Penalties.

Any violation of this Section shall, upon conviction thereof, be punishable by a fine of not less than Five Hundred Dollars (\$500.00) and not to exceed Two Thousand Dollars (\$2,000.00) or by imprisonment for a term not to exceed ninety (90) days, or both, for each violation committed hereunder. Every day that a violation continues after service of written notice by ordinary mail on the owner of the subject property or the sign registrant or a posting of a copy of said notice on the subject property shall be deemed a separate offense hereunder.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed invalid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

Councilwoman Tragni motioned to table Resolution # 2008-117/Ord. # 2008-10 (Conservation Easement MRD Enterprises) to a future meeting. This was seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor of tabling. Ronald Gordon, Esq. explained that additional information was necessary before Council can proceed to take action.

The following Resolution # 2008-118/Ord. # 2008-11 (Increase in Fees for ABC Licenses) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President Rosenthal and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-118

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2008-11

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 42 ALCOHOLIC BEVERAGES", OF THE CODE OF THE TOWNSHIP OF MARLBORO BY AMENDING AND SUPPLEMENTING SECTION 42-3, "LICENSE FEES" TO REFLECT REVISED ANNUAL LICENSE FEES FOR LIQUOR LICENSES

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 24, 2008 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2008-11

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 42 ALCOHOLIC BEVERAGES", OF THE CODE OF THE TOWNSHIP OF MARLBORO BY AMENDING AND SUPPLEMENTING SECTION 42-3, "LICENSE FEES" TO REFLECT REVISED ANNUAL LICENSE FEES FOR LIQUOR LICENSES

BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey that Chapter 42, *Alcoholic Beverages*, Section 42-3, *License Fees*, of the Code of the Township of Marlboro be and is hereby amended and supplemented to revise licensing fees for liquor licenses, as follows:

§ 42-3. License fees.

The annual licensing fees for liquor licenses hereinafter issued shall be and are hereby fixed as follows:

- A. Plenary retail consumption license: Two Thousand Four Hundred Dollars and 00/100 (\$2,400.00).
- B. Plenary retail distribution license: One Thousand Two Hundred Sixty-One Dollars and 44/100 (\$1,261.44).
- C. Limited retail distribution license: Sixty Three Dollars and 00/100 (\$63.00).

- D. Club license: One Hundred Eighty-Eight Dollars and 00/100 (\$188.00), except that this fee shall be waived for volunteer fire companies within the Township.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed invalid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Resolution # 2008-119/Ord. # 2008-12 (Authorizing Exchange of Lands - MTMUA For Installation of Solar Energy System) was introduced by reference, offered by Council President Cantor, seconded by Council Vice President Steve Rosenthal and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-119

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2008-12

AN ORDINANCE AUTHORIZING AN EXCHANGE OF LANDS AND INTERESTS THEREIN BETWEEN THE TOWNSHIP OF MARLBORO AND THE MARLBORO TOWNSHIP MUNICIPAL UTILITIES AUTHORITY FOR THE INSTALLATION OF PHOTOVOLTAIC POWER SYSTEM OR OTHER SOLAR ENERGY SYSTEM OR EQUIPMENT AS PART OF THE CUSTOMER ONSITE RENEWABLE ENERGY PROGRAM  
- NEW JERSEY CLEAN ENERGY PROGRAM

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 24, 2008 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at

which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2008-12

AN ORDINANCE AUTHORIZING AN EXCHANGE OF LANDS AND  
INTERESTS THEREIN BETWEEN THE TOWNSHIP OF MARLBORO  
AND THE MARLBORO TOWNSHIP MUNICIPAL UTILITIES  
AUTHORITY FOR THE INSTALLATION OF PHOTOVOLTAIC POWER  
SYSTEM OR OTHER SOLAR ENERGY SYSTEM OR EQUIPMENT AS  
PART OF THE CUSTOMER ONSITE RENEWABLE ENERGY PROGRAM  
- NEW JERSEY CLEAN ENERGY PROGRAM

WHEREAS, the Marlboro Township Municipal Utilities Authority (the "MTMUA") as part of its Customer Onsite Renewable Energy Program - New Jersey Clean Energy Program, has approached the Township of Marlboro ("Township") regarding a permanent easement over a portion of Township owned property to install a Photovoltaic Power System or other Solar Energy System or Equipment in exchange for the conveyance of fee simple title in and to property owned by the MTMUA to the Township; and

WHEREAS, the installation of such solar energy equipment would promote the public health and welfare of all the citizens of the Township by providing a clean, renewable energy source without undue reliance on petroleum fuel sources; and

WHEREAS, the proposed lands and interests for exchange are as follows: the Township would convey a permanent easement over a portion of the property known as Block 180, part of Lot 14, comprising approximately 432,802 square feet ("Township Property Interest") to the MTMUA, in exchange for the conveyance by the MTMUA to the Township of fee simple title in and to the property owned by the MTMUA known as Block 300.01, Lot 14 comprising approximately 0.86 acres ("MTMUA Property"); and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Township of Marlboro is authorized to adopt an Ordinance for the preservation of public health, safety and welfare; and

WHEREAS, pursuant to N.J.S.A. 40A:12-13(b)(i), the Township of Marlboro has the power to sell or exchange any real property for a public purpose at private sale to "... any political subdivision, agency, department, commission, board or body corporate and politic of the State of New Jersey or to an interstate agency or body of which the State of New Jersey is a member of to the United States of America or any department or agency thereof."

NOW, THEREFORE BE AND IT IS HEREBY IT ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that the conveyance of an interest comprising a permanent easement over a portion of the Township Property known as Block 180, Lot 14, comprising approximately 432,802 square feet, in exchange for the fee simple title in and to the property owned by the MTMUA known as Block 300.01, Lot 14 comprising approximately 0.86 acres as and for compensation therefor, is hereby authorized, conditioned upon the following:

- (1) that detailed plans from the MTMUA regarding the installation of the Photovoltaic Power System or other Solar Energy System or Equipment are provided and deemed acceptable by the Township Council of the Township of Marlboro; and
- (2) that the MTMUA receives any and all necessary approvals from any and all governmental agencies required, including, but not limited to, the New Jersey Department of Environmental Protection for the installation of the Photovoltaic Power System or other Solar Energy System or Equipment; and

BE IT FURTHER ORDAINED, that the Mayor and Township Clerk are hereby authorized to sign and witness any documents necessary to effectuate such conveyance of property and interests therein; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed invalid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Resolution # 2008-120/Ord. # 2008-13 (Exceed CAP) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Marder and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-120

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2008-13

CALENDAR YEAR 2008 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET  
APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK  
(N.J.S.A. 40A: 4-45.14)

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 24, 2008 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2008-13

CALENDAR YEAR 2008 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET  
APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK  
(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Council of the Township of Marlboro in the County of Monmouth finds it advisable and necessary to increase its CY 2008 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Council of the Township of Marlboro hereby determines that an increase of up to 3.5% in the budget for said year, in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,



WHEREAS, the Township Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of Marlboro, in the County of Monmouth, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2008 budget year, the final appropriations of the Township of Marlboro shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by an amount not to exceed 3.5%, and that the CY 2008 municipal budget for the Township of Marlboro be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

The following Resolution # 2008-121 (Bond Reduction Tennent Estates) was introduced by reference, offered by Councilwoman Tragni and seconded by Councilman LaRocca. Discussion followed during which CME Engineer Greg Valesi was present to answer Council's questions. After discussion, the resolution was passed on a roll call vote of 5 - 0 in favor.

#### RESOLUTION # 2008-121

##### RESOLUTION AUTHORIZING REDUCTION OF PERFORMANCE GUARANTEES FOR THE DEVELOPMENT KNOWN AS TENNENT ESTATES

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro has received a request for the reduction of Township held performance guarantees in the form of a performance bond and letter of credit for a development known as Tennent Estates; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township

Engineer dated March 11, 2008, a copy of which is attached hereto and made a part hereof; and

WHEREAS, the report recommends that a partial reduction be made in the current bond and letter of credit amounts being held by the Township; and

WHEREAS, the Township Council desires to take the following action regarding the aforesaid bond and letter of credit performance guarantees.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the performance guarantees posted for the development known as Tennent Estates shall be reduced as follows:

The Performance Bond, in the original and present amount of \$1,230.805.15, shall be reduced by \$705,568.59 , so that the remaining amount shall be \$525,236.56.

The Letter of Credit, in the original and present amount of \$136,756.13, shall be reduced by \$78,396.51, so that the amount to remain shall be \$58,359.62.

BE IT FURTHER RESOLVED, that the above reductions shall be subject to the posting of all review and/or inspection escrow fees required by the Planning Board and/or Developer's Agreement for the aforesaid development.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Tennent Estates, LLC
- b. Bond Safeguard Insurance Company
- c. Valley National Bank. LLC
- d. Mayor Hornik
- e. Business Administrator
- f. Chief Financial Officer
- g. Township Engineers
- h. DeCotiis, FitzPatrick, Cole & Wisler, LLP

Councilman LaRocca motioned to table the following Resolutions: Res. # 2008-122 (Bond Reduction Lexington Estates - Sect. 4) and Res. # 2008-123 (Bond Release

Lexington Estates - Sect. 4A) and Res. # 2008-124 (Bond Release Lexington Estates - Section 5). This was seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor of tabling. CME Engineer Greg Valesi was present and stated that additional information will be forthcoming before Council proceeds to take action.

The following Resolution # 2008-125 (Fees for Long Term Special Duty Assignments) was introduced by reference, offered by Councilman LaRocca and seconded by Councilwoman Marder. Lt. Nicholas Barbella was present for discussion and addressed Council's questions. After discussion, the resolution was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-125

A RESOLUTION AMENDING FEES FOR LONG TERM SPECIAL DUTY  
ASSIGNMENTS FOR POLICE OFFICERS AND REDUCING MANPOWER

WHEREAS, various businesses operating within the Township of Marlboro from time to time request assistance from members of the Township of Marlboro Division of Police to perform special duty assignment services; and

WHEREAS, it is deemed to be in the interest of the public safety that personnel specially trained to undertake such policing activities be used in performance of such duties; and

WHEREAS, such services are considered a "special duty assignment from independent contractors" pursuant to Section 4-98(E) of the Code of the Township of Marlboro and as such is exempt from the Fair Labor Standards Act; and

WHEREAS, Section 4-98(E)(6) of the Code of the Township of Marlboro provides that the charges for all extra duty services provided by the Police shall be set forth in a resolution adopted by the Township Council; and

WHEREAS, said charges were initially established by Resolution #2000-105 and amended by Resolution #2007-81; and

WHEREAS, the Division of Police has recommended that the hourly billing rates for special duty assignments for long term on-going police services for Diamond Plaza shall be amended to as follows:

Diamond Plaza                      \$35.00 per hour; and

WHEREAS, the Division of Police further recommends that out of the total hourly charge of \$35.00, \$29.75 shall be paid to the Police Officer performing such services and an administration fee of \$5.25 shall be retained by the Township; and

WHEREAS, the Division of Police has further recommended that there shall be a reduction in man power to one (1) duty officer per shift for the Diamond Plaza site; and

WHEREAS, the same rates and services will be made available for such special duty assignments for long term on-going police services to other similarly situated applicants, subject to available manpower and the at the direction of the Chief of Police; and

WHEREAS, these amended rates have been agreed to by the majority representatives of the collective bargaining units of the affected employees; and

WHEREAS, such assignments are to be approved through the Chief of Police or his designee and are subject to all other provisions of Section 4-98(C) of the Code of the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that effective upon passage hereof, the rates for special duty assignments for long term on-going police services for Diamond Plaza shall be amended and established at \$35.00 per hour; and

BE IT FURTHER RESOLVED, that of the total hourly charge of \$35.00, \$29.75 shall be paid to the Police Officer performing such services and an administrative fee of \$5.25 shall be retained by the Township; and

BE IT FURTHER RESOLVED, that there shall be a reduction in man power to one (1) duty officer per shift for the Diamond Plaza site; and

BE IT FURTHER RESOLVED, that the same rates and services will be made available for such special duty assignments for long term on-going police services to other similarly situated applicants, subject to available manpower and the at the direction of the Chief of Police; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Mayor Hornik
- b. Township Administrator
- c. Chief Financial Officer
- d. Chief of Police
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2008-127 (Advising and Consenting to Ethics Board Appt. - Hassan El Mansoury) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Marder and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-127

A RESOLUTION CONSENTING TO THE MAYOR'S APPOINTMENT OF  
HASSAN M. EL MANSOURY, M.D. TO THE MARLBORO  
TOWNSHIP ETHICAL STANDARDS BOARD

WHEREAS, Section 14-7 of the Code of the Township of Marlboro established the Marlboro Township Ethical Standards Board; and

WHEREAS, said Board consists of six members appointed by the Mayor with the advice and consent of the Township Council; and

WHEREAS, the members of the Marlboro Township Ethical Standards Board are and shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs; and

WHEREAS, initially, two members were appointed to serve for terms of five years, one member was appointed to serve for a term of four years and the remaining members were appointed to serve for terms of three years; and

WHEREAS, as of March 31<sup>st</sup>, there is a vacancy in one of the three year term appointments; and

WHEREAS, the Mayor has made the following appointment to the Marlboro Township Ethical Standards Board to replace such vacancy for a three year term: Hassan M. El Mansoury, M.D. for a term of three years; and

WHEREAS, the Township Council desires to consent to the Mayor's replacement appointment to the Marlboro Township Ethical Standards Board.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, that the Township Council of the Township of Marlboro consents to the following replacement appointment made by the Mayor to the Marlboro Township Ethical Standards Board of Hassan M. El Mansoury, M.D., for a term of three years, commencing April 1, 2008 and ending March 31, 2011; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Hassan M. El Mansoury, M.D.
- b. Mayor Jonathan L. Hornik
- c. Township Business Administrator
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2008-128 (Authorizing Contract - Civil Solutions - Update on Tax Maps) was introduced by reference, offered by Councilwoman Tragni, seconded by Council President Cantor and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-128

RESOLUTION AUTHORIZING EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH CIVIL SOLUTIONS FOR UPDATE AND MAINTENANCE OF THE TOWNSHIP OF MARLBORO TAX MAP FOR THE CALENDAR YEAR 2008

WHEREAS, the Township requires professional services to update and maintain the Township Tax Map for the calendar year 2008, such services to be rendered by the firm of Civil Solutions (the "Business Entity") under a contract to be awarded pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A 19:44A-20.5; and

WHEREAS, such services are to be performed and rendered by a person or persons licensed and authorized to undertake professional grant writing and application services, and, accordingly, constitute professional services exempt from public bidding pursuant to the Local Public Contracts Law, specifically N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, the Chief Financial Officer of the Township of Marlboro has determined that the value of the contract may exceed \$17,500.00; and

WHEREAS, the Business Entity has submitted a proposal to the Township of Marlboro to provide the aforementioned professional services for an hourly fee of \$150.00 per hour for the services of a Principal Professional Land Surveyor and \$65.00 an hour for the services of a Senior Technician for an estimated total amount not to exceed \$24,000.00; and

WHEREAS, funds will be available for this purpose in the 2008 Municipal Budget.

WHEREAS, the Business Entity has completed and submitted a Business Entity Disclosure Certification certifying that the Business Entity has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Section 26 or to N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate Marlboro Township Code Section 26 or N.J.S.A. 19:44A-20.5 will be made during the term of the contract; and

WHEREAS, the Township has been provided with the Business Entity's Disclosure of Campaign Contributions at least ten (10) days prior hereto, as required by P.L. 2005, c. 271.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that:

1. The Township Council of the Township of Marlboro, hereby authorizes a Professional Services Contract to the firm of Civil Solutions to provide services to update and maintain the Township of Marlboro Tax Map for the Calendar Year 2008 pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5; and

2. The Professional Services Contract is awarded without competitive public bidding pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-5(1)(a)(i), and shall provide for compensation at an hourly fee of \$150.00 for the services of a Principal Professional Land Surveyor and \$65.00 an hour for the services of a Senior Technician, for an estimated total amount not to exceed \$24,000.00; and

2. The Mayor and Town Clerk are hereby authorized and directed to execute, seal and deliver the said Contract for

Professional Services on behalf of and in the name of the Township of Marlboro; and

3. The Chief Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available for said contract from Account Number 8-01-045-288.

4. The Business Entity Disclosure Certification, Business Entity Disclosure of Campaign Contributions, and Determination of Value shall be placed on file with this Resolution; and

5. A copy of the Notice of this Resolution shall be published as required by law within ten (10) days of its passage; and

6. A certified copy of this Resolution shall be provided to each of the following:

- a. Mayor Jonathan Hornik
- b. Township Administrator
- c. Civil Solutions

The following Resolution # 2008-129 (Award of Bid - Swim Concession) was introduced by reference, offered by Council Vice President Rosenthal, seconded by Councilwoman Tragni and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-129

A RESOLUTION AWARDING A CONTRACT TO TEE TIME CONCESSIONS TO OPERATE FOOD CONCESSION AT MARLBORO TOWNSHIP SWIM CLUB FOR CALENDAR YEARS 2008 THROUGH 2009 WITH THE OPTION TO RENEW FOR YEARS 2010 AND 2011

WHEREAS, the Township of Marlboro authorized the acceptance of bids to Operate Food Concession at the Marlboro Township Swim Club for Calendar Years 2008 through 2009, with the option to renew for years 2010 and 2011, and on March 18, 2008, received one (1) bid therefor; and

WHEREAS, the one (1) bid received was as follows:

- 1. Tee Time Concessions, 68 Pinebrook Road, Manalapan,  
New Jersey 07726  
2008 - \$8,000.00  
2009 - \$8,000.00



2010 - \$8,000.00  
2011 - \$8,000.00  
Total: \$32,000.00 for years 2008 through 2011; and  
Amount per Attendee: \$.045 (2008 - 2010)

WHEREAS, the Township Administration and the Township Swim Utility, Marlboro Swim Club have reviewed the said bid received and recommended that same be awarded to Tee Time Concessions as the ostensible highest responsible bidder; and

WHEREAS, the Mayor and Township Council have indicated their desire to engage Tee Time Concessions to Operate Food Concession at the Marlboro Township Swim Club for Calendar Years 2008 through 2009, with the option to renew for years 2010 and 2011.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract be awarded to Tee Time Concessions of Manalapan, New Jersey, to Operate Food Concession at the Marlboro Township Swim Club for Calendar Years 2008 through 2009, with the option to renew for years 2010 and 2011 for compensation as set forth hereinabove; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute and the Township Clerk to witness a Contract with Tee Time Concessions in a form to be approved by the Township Attorney, for the aforementioned services; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Tee Time Concessions
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Director, Marlboro Township Swim Club
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2008-130 (Award of Bid - Type 13 Bulky Waste) was introduced by reference, offered by Councilwoman Tragni, seconded by Councilwoman Marder and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-130

A RESOLUTION AWARDING A CONTRACT TO REPUBLIC SERVICES OF NJ, LLC D/B/A MARPAL COMPANY FOR DISPOSAL OF TOWNSHIP TRANSPORTED TYPE 13 BULKY WASTE FOR THE TOWNSHIP OF MARLBORO DEPARTMENT OF PUBLIC WORKS (DPW) RECYCLING BUREAU

WHEREAS, the Township of Marlboro authorized the acceptance of bids for disposal of Township transported Type 13 Bulky Waste for the Township of Marlboro Department of Public Works ("DPW") Recycling Bureau, and on March 4, 2008, received three (3) bids therefor; and

WHEREAS, the three (3) bids received was as follows:

1. Republic Services of NJ, LLC d/b/a Marpal Company; PO Box 188, Lincroft, NJ 07738

Type 13 Bulky Waste Price Per Ton	\$ 79.00
Price for 1,000 Tons (without tax)	\$79,000.00

2. Mazza & Sons, Inc., 3230 Shafto Road, Tinton Falls, NJ 07753

Type 13 Bulky Waste Price Per Ton	\$ 80.00
Price for 1,000 Tons (without tax)	\$80,000.00

3. Montecalvo Disposal Services, Inc., 75 Crows Mill Road, Keasbey, NJ 08832

Type 13 Bulky Waste Price Per Ton	\$ 80.00
Price for 1,000 Tons (without tax)	\$80,000.00; and

WHEREAS, the Township Administration and the Township Department of Public Works have reviewed the said bids received and recommended that same be awarded to Republic Services of NJ, LLC d/b/a Marpal Company as the lowest responsible bidder; and

WHEREAS, funds are available and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Mayor and Township Council have indicated their desire to engage Republic Services of NJ, LLC d/b/a Marpal Company for disposal of Township transported Type 13 Bulky Waste for the Township of Marlboro Department of Public Works ("DPW") Recycling Bureau.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract be awarded to Republic Services of NJ, LLC d/b/a Marpal Company of Lincroft, New Jersey, for disposal of Township transported Type 13 Bulky Waste for the Township of Marlboro Department of Public Works ("DPW") Recycling Bureau for compensation as set forth hereinabove; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute and the Township Clerk to witness a Contract with Republic Services of NJ, LLC d/b/a Marpal Company in a form to be approved by the Township Attorney, for the aforementioned services; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available for said contact from Account Number 8-01- -170-286; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Republic Services of NJ, LLC d/b/a Marpal Company
- b. Township Chief Financial Officer
- c. Director, Department of Public Works
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

Councilman LaRocca recused himself from Item #27 (Res. # 2008-131 - Award of Contract - Lawn Cutting Pioneer and Item # 28 (Res. # 2008-132 (Award of Contact - Lawn Chemical - Pioneer) and left the room.

The following Resolution # 2008-131 (Award of Contract - Lawn Cutting - Pioneer) was introduced by reference, offered by Councilwoman Tragni, seconded by Council President Cantor and was then passed on a roll call vote of 4 - 1 in favor (Absent: LaRocca).

RESOLUTION # 2008-131

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT  
TO PIONEER LAWN & LANDSCAPE FOR THE PROVISION  
OF LAWN CUTTING SERVICES FOR THE TOWNSHIP  
OF MARLBORO SWIM DIVISION

WHEREAS, the Township of Marlboro Swim Division contacted interested lawn service firms requesting estimates for costs for (a) lawn cutting; (b) lawn chemical services and optional extras; and (c) general grounds maintenance for the Marlboro Swim Club; and

WHEREAS, two (2) estimates for lawn cutting services were received as follows:

1. Pioneer Lawn & Landscaping, Inc., Manalapan, New Jersey for an amount not to exceed \$15,300 for labor and materials for the two-year period of 2008 and 2009; and
2. Shamrock Lawn & Landscape, Inc., Marlboro, New Jersey for an amount not to exceed \$16,800 for labor and materials for the two-year period of 2008 and 2009; and

WHEREAS, the aggregate amount of the lowest estimate provided for lawn cutting services does not exceed \$21,000.00 in a contract year, thereby allowing the contract to be awarded pursuant to N.J.S.A. 40A:11-3 without public advertising for bids; and

WHEREAS, the Administration and the Swim Division have reviewed the estimates received and recommend that a two-year contract be awarded to Pioneer Lawn & Landscape for 2008 and 2009 in an amount not to exceed \$7,650.00 per annum and not to exceed an accumulative total of \$15,300.00 over the 24 month period; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award a two-year contract to Pioneer Lawn & Landscape in 2008 and 2009 for an amount not to exceed \$7,650.00 per annum and not to exceed an accumulative total of \$15,300.00 over the 24 month period for the provision of lawn cutting services in years 2008 and 2009.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract to provide lawn cutting services be and hereby is awarded to Pioneer Lawn & Landscape and that the Mayor is authorized to execute a two-year contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Pioneer Lawn & Landscape for the provision of lawn cutting services for the Swim Division in an amount not to exceed \$7,650.00 per annum and not to exceed an accumulative total of \$15,300.00 over the 24 month period; and

BE IT FURTHER RESOLVED that the Governing Body hereby commits to making funds available in both the 2008 and 2009 Swim Utility operating budgets; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Pioneer Lawn & Landscape
- b. Swim Division
- c. Township Administrator
- d. Township Chief Financial Officer

e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2008-132 (Award of Contract - Lawn Cutting - Pioneer) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President Rosenthal and was then passed on a roll call vote of 4 - 1 in favor (Absent: LaRocca).

RESOLUTION # 2008-132

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO  
PIONEER LAWN & LANDSCAPE FOR THE PROVISION OF LAWN  
CHEMICAL SERVICES AND OPTIONAL EXTRAS FOR THE TOWNSHIP OF  
MARLBORO SWIM DIVISION

WHEREAS, the Township of Marlboro Swim Division contacted interested lawn service firms requesting estimates for costs for (a) lawn cutting; (b) lawn chemical services and optional extras; and (c) general grounds maintenance for the Marlboro Swim Club; and

WHEREAS, two (2) estimates for lawn chemical services and optional extras were received as follows:

1. Pioneer Lawn & Landscaping, Inc., Manalapan, New Jersey for an amount not to exceed \$14,100 for labor and materials for the two-year period of 2008 and 2009; and
2. Shamrock Lawn & Landscape, Inc., Marlboro, New Jersey for an amount not to exceed \$14,750 for labor and materials for the two-year period of 2008 and 2009; and

WHEREAS, the aggregate amount of the lowest estimate provided for lawn chemical services and optional extras does not exceed \$21,000.00 in a contract year, thereby allowing the contract to be awarded pursuant to N.J.S.A. 40A:11-3 without public advertising for bids; and

WHEREAS, the Administration and the Swim Division have reviewed the estimates received and recommend that a two-year contract be awarded to Pioneer Lawn & Landscape for 2008 and 2009 in an amount not to exceed \$7,050.00 per annum and not to exceed an accumulative total of \$14,100.00 over the 24 month period; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award a two-year contract to Pioneer Lawn & Landscape in 2008 and 2009 in an amount

not to exceed \$7,050.00 per annum and not to exceed an accumulative total of \$14,100.00 over the 24 month period for the provision of lawn chemical services and optional extras in years 2008 and 2009.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract to provide lawn chemical services and optional extras be and hereby is awarded to Pioneer Lawn & Landscape and that the Mayor is authorized to execute a two-year contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Pioneer Lawn & Landscape for the provision of lawn chemical services and optional extras for the Swim Division in an amount not to exceed \$7,050.00 per annum and not to exceed an accumulative total of \$14,100.00 over the 24 month period; and

BE IT FURTHER RESOLVED that the Governing Body hereby commits to making funds available in both the 2008 and 2009 Swim Utility operating budgets; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Pioneer Lawn & Landscape
- b. Swim Division
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

The following Resolution # 2008-133 (Temporary Emergency Appropriation) was introduced by reference, offered by Council Vice President Rosenthal, seconded by Council President Cantor and was then passed on a roll call vote of 5 - 0 in favor.

#### RESOLUTION # 2008-133

##### EMERGENCY TEMPORARY RESOLUTION PRIOR TO ADOPTION OF THE BUDGET

WHEREAS, N.J.S.A. 40A:4-20 provides authorization for an emergency temporary appropriation in anticipation of the adoption of the 2008 Municipal budget; and

WHEREAS, this resolution authorizes appropriations representing 50% of the full 2007 appropriations with the exception of debt service and seasonal considerations; and

WHEREAS, the total emergency temporary resolutions adopted in the year CY 2007 pursuant to the provisions of N.J.C.A. 40A 4-20 (Chapter 96, P.L.1951 as amended) including this resolution total: \$18,011,827.18 for the municipal budget and \$541,712.50 for the operations of the swim utility;

NOW THEREFORE, BE IT RESOLVED, that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation be and the same is hereby made for each of the accounts listed on the attached.
2. That each said emergency temporary appropriation has been provided for in the CY 2008 budget under the same title as appropriated above.
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

The following Resolution # 2008-134 (Award of Professional Services Contract - Birdsall) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President Rosenthal and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-134

A RESOLUTION AUTHORIZING THE APPOINTMENT OF AND EXECUTION OF CONTRACTS WITH BIRDSALL ENGINEERING, INC. FOR ENGINEERING SERVICES FOR: (1) IMPROVEMENTS TO STATION ROAD, PHASE 1, ROUTE 79 TO BRIARCLIFF DRIVE; (2) OUTBOUND SURVEY/MINOR SUBDIVISION FOR BLOCK 253, LOTS 35, 36, 36.01, 37 & 39; AND (3) MARLBORO MUNICIPAL PARK COMPLEX (H&L SOCCER FIELDS) SITE INVESTIGATION SERVICES/REMEDICATION ON AN EMERGENCY BASIS

WHEREAS, the Township requires the services of a professional consulting engineer to provide engineering, surveying and remediation services for the following projects: (1) Improvements to Station Road, Phase I, Route 79 to Briarcliff Drive; (2) Outbound Survey/Minor Subdivision for Block 253, Lots 35, 36, 36.01, 37 & 39; and (3) Marlboro Municipal Park Complex (H&L Soccer Fields) Site Investigation Services/Remediation, to be signed on an emergency basis (collectively referred to hereinafter as the "Engineering

Projects") pursuant to N.J.S.A. 40A:11-6 as affecting the public health, safety and welfare; and

WHEREAS, such Engineering Projects are to be performed and rendered by a person or persons licensed and authorized to practice engineering, surveying and remediation services in the State of New Jersey and, accordingly, constitute professional services exempt from public bidding pursuant to the Local Public Contracts Law, specifically N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, such engineering, surveying and remediation services are to be rendered by the firm of Birdsall Engineering, Inc. (the "Business Entity") under Contracts to be awarded pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the Chief Financial Officer of the Township of Marlboro has determined that the value of each of the Contracts will exceed \$17,500.00; and

WHEREAS, funds are available for this purpose in the 2008 municipal budget.

WHEREAS, the Business Entity has completed and submitted a Business Entity Disclosure Certification certifying that the Business Entity has not made any reportable contributions that would bar the award of the Contracts pursuant to Marlboro Township Code Section 26 or to N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate Marlboro Township Code Section 26 or N.J.S.A. 19:44A-20.5 will be made during the term of the Contracts; and

WHEREAS, the Township has been provided with the Business Entity's Disclosure of Campaign Contributions at least ten (10) days prior hereto, as required by P.L. 2005, c. 271.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that:

1. The Township Council of the Township of Marlboro, hereby authorizes and approves the award of Professional Services Contracts to Birdsall Engineering, Inc. as Consulting Engineers to the Township of Marlboro for the Engineering Projects (as defined hereinabove) pursuant to a non-fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20, such Contracts to be signed on an



emergency basis pursuant to N.J.S.A. 40A:11-6 as affecting the public health, safety and welfare and

2. The Professional Services Contracts are awarded without competitive public bidding pursuant to the Local Public Contracts Law, specifically, N.J.S.A. 40A:11-5(1)(a)(i), and shall provide for compensation as follows:

- (a) For the provision of engineering services regarding the Improvements to Station Road, Phase I, Route 79 to Briarcliff Drive, compensation shall be for a total amount not to exceed \$15,000.00;
- (b) For the provision of engineering and surveying services for Outbound Survey/Minor Subdivision for Block 253, Lots 35, 36, 36.01, 37 & 39, compensation shall be for a total amount not to exceed \$25,000.00; and
- (c) For the provision of Marlboro Municipal Park Complex (H&L Soccer Fields) Site Investigation Services/Remediation, compensation shall be for a total amount not to exceed \$50,000.00.

3. The Mayor and Town Clerk are hereby authorized and directed to execute, seal and deliver the said Contracts for Professional Services on behalf of and in the name of the Township of Marlboro; and

4. The Chief Financial Officer has executed a Certification of Funds for the Contracts, which is attached hereto, and that sufficient funds are available for said Contracts from Account Number 8-01-320-201.

5. The Business Entity Disclosure Certification, Business Entity Disclosure of Campaign Contributions, and Determination of Value shall be placed on file with this Resolution; and

6. A copy of the Notice of this Resolution shall be published as required by law within ten (10) days of its passage; and

7. A certified copy of this Resolution shall be provided to each of the following:

- a. Mayor Jonathan Hornik
- b. Township Administrator
- c. Birdsall Engineering, Inc.

The following Resolution # 2008-135 (Cancellation of Capital Ordinances) was introduced by reference, offered by Councilwoman Tragni, seconded by Councilman LaRocca and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-135

WHEREAS, certain ordinances exist on the financial records of the Township of Marlboro, Monmouth County, State of New Jersey with both funded and unfunded balances, and

WHEREAS, the purposes for which these projects or ordinances were originally passed are either complete or deemed no longer necessary, and

WHEREAS, the adoption dates of the named ordinances all date back to the last decade, with no activity being recorded against them since 2005, and

WHEREAS, it is the desire of the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey to cancel these ordinances and remove the unfunded authorizations from the Township debt and funded balances to capital surplus.

NOW, THEREFORE, BE IT RESOLVED, that the Capital Ordinances listed below are hereby cancelled into Capital surplus in the amounts listed and any outstanding encumbrances hereby cancelled.

<b>Ordinance Number</b>	<b>Purpose</b>	<b>Funded Balance</b>	<b>Unfunded Balance</b>
34-96 / 17-98	Storm Drainage Imps / Professional Fees	43,944.93	35,815.00
16-97	Various Capital Improvements	423.91	
34-99	Various Capital Improvements	77,995.98	
Total		\$ 122,364.82	\$ 35,815.00

The following Res. # 2008-136/Ord. # 2008-14 (Fully Funded Bond Ordinance - Various Capital Improvements to Municipally-owned property) was introduced by reference, offered by Councilwoman Tragni, seconded by Council Vice President Rosenthal and was then passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2008-136

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2008-14

AN ORDINANCE APPROPRIATING \$100,000 FROM CAPITAL SURPLUS TO FULLY FUND COSTS ASSOCIATED WITH CAPITAL IMPROVEMENTS TO REAL PROPERTY OWNED BY THE TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 24, 2008 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2008-14

AN ORDINANCE APPROPRIATING \$100,000 FROM CAPITAL SURPLUS TO FULLY FUND COSTS ASSOCIATED WITH CAPITAL IMPROVEMENTS TO REAL PROPERTY OWNED BY THE TOWNSHIP OF MARLBORO

WHEREAS, The Governing Body of the Township of Marlboro needs to authorize engineering and other preliminary work pursuant to improvements to be performed to property owned by the municipality; and

WHEREAS, the required funds needed for this purpose are currently available in the Capital Surplus Account in the General Capital Fund of the Township of Marlboro.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that a sum of \$100,000 is hereby appropriated for the aforementioned work from the Township Capital Surplus account; and

BE IT FURTHER ORDAINED that the Chief Financial Officer has executed a Certification of Funds and determined that sufficient funds are available for this purpose in the Capital Surplus Account; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

As the consent agenda, the following Resolutions were introduced by reference, offered by Councilwoman Tragni, seconded by Councilwoman Marder and passed on a roll call vote of 5 - 0 in favor: Res. # 2008-138 (Renewal of Contract - Retention/Detention Basin Maintenance - Shamrock), Res. #2008-139 (Award of Contract - Grounds Maintenance - Shamrock), Res. #2008-140 (Recycling Tonnage Grant) and Res. #2008-141 (Raffle License Marlboro Jewish Center).

RESOLUTION # 2008-138

A RESOLUTION APPROVING A ONE-YEAR RENEWAL OF THE CONTRACT  
BETWEEN THE TOWNSHIP OF MARLBORO AND SHAMROCK LAWN &  
LANDSCAPE, INC. FOR THE PROVISION OF DETENTION/RETENTION  
BASIN MAINTENANCE SERVICE FOR THE TOWNSHIP OF MARLBORO  
DEPARTMENT OF PUBLIC WORKS (DPW)

WHEREAS, by Resolution #2007-176, dated April 12, 2007, the Township of Marlboro awarded a one-year contract to Shamrock Lawn & Landscape, Inc., P.O. Box 503, Marlboro, NJ 07746 to provide detention/retention basin maintenance service for the Township of Marlboro, as set forth in the bid proposal on file with the Township; and

WHEREAS, pursuant to the authorization provided by Resolution #2007-176, the parties entered into a contract for the provision of detention/retention basin maintenance service dated April 17, 2007 (the "Contract"), which is attached hereto and made a part hereof; and

WHEREAS, in accordance with the bid specifications and the terms and conditions of the Contract, the Township of Marlboro reserved the exclusive option to renew any components of the Contract for an additional one-year period on the same terms and conditions specified in the bid proposal submitted by Shamrock Lawn & Landscape, Inc.; and

WHEREAS, Administration and the Township of Marlboro Department of Public Works have recommended that the Township Council approve the renewal of the Contract for a period of one year upon the same terms and conditions specified in the bid proposal submitted by Shamrock Lawn & Landscape, Inc.; and

WHEREAS, funds are available in Trust Account Number T-16-58-856-806 for an amount not to exceed \$139,166.00 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council has determined that it is in the best interest of the residents of the Township of Marlboro to approve said renewal of the Contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to renew the Contract between the Township of Marlboro and Shamrock Lawn & Landscape, Inc., P.O. Box 503, Marlboro, NJ 07746 for a period of one year upon the same terms and conditions specified in the bid proposal submitted by Shamrock Lawn & Landscape, Inc. and authorized by Resolution #2007-143; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Shamrock Lawn & Landscape, Inc.
- b. Township Administrator
- c. Department of Public Works
- d. Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2008-139

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO  
SHAMROCK LAWN & LANDSCAPE, INC. FOR THE PROVISION OF  
GROUNDS MAINTENANCE SERVICES FOR THE TOWNSHIP OF MARLBORO  
SWIM DIVISION

WHEREAS, the Township of Marlboro Swim Division contacted interested lawn service requesting estimates for costs for (a) lawn cutting; (b) lawn chemical services and optional extras; and (c) general grounds maintenance for the Marlboro Swim Club; and

WHEREAS, two (2) estimates for grounds maintenance services were received as follows:

1. Pioneer Lawn & Landscaping, Inc., Manalapan, New Jersey for \$35.00 per hour for labor and materials for the two-year period of 2008 and 2009; and
2. Shamrock Lawn & Landscape, Inc., Marlboro, New Jersey for \$34.00 per hour for labor and materials for the two-year period of 2008 and 2009; and

WHEREAS, the aggregate amount of the lowest estimate provided for grounds maintenance services does not exceed \$21,000.00 in a

contract year, thereby allowing the contract to be awarded pursuant to N.J.S.A. 40A:11-3 without public advertising for bids; and

WHEREAS, the Administration and the Swim Division have reviewed the estimates received and recommend that a two-year contract be awarded to Shamrock Lawn & Landscape, Inc. for 2008 and 2009 in an amount not to exceed \$10,000.00 per annum and not to exceed an accumulative total of \$20,000.00 over the 24 month period; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award a two-year contract to Shamrock Lawn & Landscape, Inc. in 2008 and 2009 in an amount not to exceed \$10,000.00 per annum and not to exceed an accumulative total of \$20,000.00 over the 24 month period for the provision of grounds maintenance services in years 2008 and 2009.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a contract to provide grounds maintenance services be and hereby is awarded to Shamrock Lawn & Landscape, Inc. and that the Mayor is authorized to execute a two-year contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Shamrock Lawn & Landscaping, Inc. for the provision of grounds maintenance services for the Swim Division in an amount not to exceed \$10,000.00 per annum and not to exceed an accumulative total of \$20,000.00 over the 24 month period; and

BE IT FURTHER RESOLVED that the Governing Body hereby commits to making funds available in both the 2008 and 2009 Swim Utility operating budgets; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Shamrock Lawn & Landscape, Inc.
- b. Swim Division
- c. Township Administrator
- d. Township Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2008-140

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection is promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and indicate the assent of the Marlboro Township Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure that the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Marlboro that Marlboro Township hereby endorses the submission of a Municipal Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection and Energy and designates the Recycling Coordinator to ensure that the said Application is properly filed.

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

#### RESOLUTION # 2008-141

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 08-08 (Off Premise Merchandise) be and it is hereby granted to Marlboro Jewish Center, 103 School Road West, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle will be held

on May 17, 2008 at 8:30 PM at Marlboro Jewish Center,  
103 School Road West, Marlboro, N. J. 07746.

The following Resolutions were carried to the April 24<sup>th</sup> agenda:  
Res. #2008-000 (Tax Collector Resolutions).

At 11:05PM, Council Vice President Rosenthal moved that  
the meeting be adjourned. This was seconded by  
Councilwoman Marder, and as there was no objection, the  
Clerk was asked to cast one ballot.

MINUTES APPROVED: May 15, 2008

OFFERED BY: Tragni AYES: 4

SECONDED BY: Marder NAYS: 0

ABSENT: Cantor

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ALIDA MANCO  
MUNICIPAL CLERK

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JEFF CANTOR  
COUNCIL PRESIDENT